



**ADMINISTRATIVE RECORD**

**KRAUS WAREHOUSE SITE  
ISABELLE STREET**

**BUFFALO, ERIE COUNTY, NY**

Prepared for:

U.S.EPA Region II  
Removal Action Branch  
Edison, NJ 08837

Prepared By:

Region II Removal Support Team  
Weston Solutions, Inc.  
Federal Programs Division  
Edison, NJ 08837

DCN #: RST-02-F-01942  
Epa Contract No: 68-W-00-113

November 2005

**FACT SHEET**  
**Administrative Records in Local Repositories**

The "Administrative Record" is the collection of documents which form the basis for the selection of a response action at a Superfund Site. Under Section 113(k) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA), the EPA is required to establish an Administrative Record available at or near the site.

The Administrative Record file must be reasonably available for public review during normal business hours. The record file should be treated as a non-circulating reference document. This will allow the public greater access to the volumes and also minimize the risk of loss or damage. Individuals may photocopy any documents contained in the record file, according to the photocopying procedures at the local repository.

The documents in the Administrative record file may become damaged or lost during use. If this occurs, the local repository manager should contact the EPA Regional Office for replacements. Periodically, the EPA may send supplemental volumes and indexes directly to the local repository. These supplements should be placed with the initial record file.

The Administrative Record file will be maintained at the local repository until further notice. Questions regarding the maintenance of the record file should be directed to the EPA Regional Office.

The Agency welcomes comments at any time on documents contained in the Administrative Record file. Please send any such comments to Kevin Matheis, Removal Action Branch, U.S. EPA Region II, Woodbridge Avenue, Edison, NJ 08837.

For further information on the Administrative Record file, contact Kevin Matheis, On-Scene Coordinator, Removal Action branch, U.S. EPA Region II, at 732-311-6789

## **KRAUS WAREHOUSE SITE**

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## **Administrative Record File**

### **Model Index of Documents**

The index of documents contains the following information about each document:

**Documents #:** Site Code (three letters for the site name)- Section, First page - Section - Last Page **EXAMPLE (KWS 1.1001 - 1.1002)**  
**Title:** Abstract of Documents Contents  
**Category:** Document Category/Section of Administrative Record File  
**Author:** Writer and Affiliation  
**Recipient:** Addressee or Public and Affiliation, if applicable  
**Date:** When document was created or Transmitted

Note: Items in the Administrative Record are for public access, and should be removed from the file only for copying. The cost of reproduction of the documents in the file is the responsibility of the person requesting the copy.

**KRAUS WAREHOUSE SITE  
ADMINISTRATIVE RECORD FILE  
INDEX OF DOCUMENTS**

**Document #:** KWS 1.1001 - 1.1007

**Title:** City of Buffalo, New York Incident Report

**Category:** Site Identification

**Author:** City of Buffalo, New York, Fire Station Number 26

**Recipient:** File

**Date:** December 23, 2004

**Document #:** KWS 1.1008 - 1.1011

**Title:** List of Tenants and Spaces Rented

**Category:** Site Identification

**Author:** Adam B. Conners, Fried and Klawon Attorneys and Counselors at Law,  
Williamsville, New York

**Recipient:** Brian Carr, Assistant Regional Counsel, EPA Region II, New York, New York

**Date:** December 28, 2004

**Document #:** KWS 1.2001 - 1.2002

**Title:** NYSDEC Request for Emergency Response Action at Kraus Enterprises  
Warehouse

**Category:** Site Inspection

**Author:** Andrew J English, PE, Acting Director, Bureau of Technical Support, NY State  
Department of Environmental Conservation, Albany, New York

**Recipient:** George Pavlou, Director, Emergency and Remedial Response Division, US EPA,  
Region II, New York, New York

**Date:** December 22, 2004

**Document #:** KWS 2.5001 - 2.5021

**Title:** Action Memorandum, Kraus Warehouse, Buffalo, Erie County, New York

**Category:** Removal Response

**Author:** Kevin Matheis, On-Scene Coordinator, Removal Action Branch, United States  
Environmental Protection Agency, Region II, Edison, New Jersey

**Recipient:** William McCabe, Acting Director, Emergency and Remedial Response Division,  
U.S. EPA Region II, New York, New York

**Date:** May 2005

**Document #:** KWS 2.7001 - 2.7003

**Title:** Pollution Report #1, Aryle Inc. Site, Isabelle Street, Buffalo, New York

**Category:** Removal Response

**Author:** Mark Gallo, On-Scene Coordinator, Response and Prevention Branch, U.S. EPA  
Region II, Edison, New Jersey

**Recipient:** Files

**Date:** December 22, 2003

**Document #:** KWS 2.7004 - 2.7007

**Title:** Pollution Report #10, Aryle Inc. Site, Isabelle Street, Buffalo, New York

**Category:** Removal Response

**Author:** Mark Gallo, On-Scene Coordinator, Response and Prevention Branch, U.S. EPA  
Region II, Edison, New Jersey

**Recipient:** Files

**Date:** April 15, 2005

**Document #:** KWS 2.8001 - 2.8007

**Title:** Kraus Warehouse Photo Documentation

**Category:** Removal Response

**Author:** Kevin Matheis, On-Scene Coordinator, Removal Action Branch, EPA Region II,  
Edison, New Jersey

**Recipient:** Files

**Date:** December 14, 2004

**Document #:** KWS 7.7001 - 7.7002

**Title:** Amended Order to Vacate

**Category:** Enforcement

**Author:** Hon. Henry J. Nowak, State of New York, City Court: County of Erie

**Recipient:** William P Kraus Jr.

**Date:** August 4, 2004

**Document #:** KWS 7.7003

**Title:** Amended Order to Vacate

**Category:** Enforcement

**Author:** Hon. Henry J Nowak, State of New York, City Court: County of Erie

**Recipient:** William P Kraus, Jr.

**Date:** December 9, 2004

**Document #:** KWS 10.3001

**Title:** Notice of Public Availability

**Category:** Public Participation

**Author:** Kevin Matheis, On-Scene Coordinator, Removal Action Branch, EPA Region II,  
Edison, New Jersey

**Recipient:** Public

**Date:** November 2005



**Document #:** KWS 11.2001 - 11.2002

**Title:** EPA Regional Guidance Documents

**Category:** Technical Source and Guidance Documents

**Author:** U.S. EPA Region II, Edison, New Jersey

**Recipient:** Public

**Date:** November 2005

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CITY OF BUFFALO, NY

PAGE: 1

FDID: 15-100

INCIDENT REPORT

Prepared: 12/23/2004 10:26:46 AM

Date: 12/08/2004

Station: 26

Incident Number: 04030678 Exp: 0

## B: Location

STREET ADDRESS: 308 CROWLEY AV  
BUFFALO, NY 142 -

Census Tract:

Room/Apt:

## C: Incident Type

(111) BUILDING FIRE

## D: Aid Given or Received: None

## E1: Dates &amp; Times

Alarm: 12/08/2004 23:48

Arrival: 12/08/2004 23:50

Controlled: 12/09/2004 01:05

Last Unit Cleared: 12/09/2004 02:05

## E2: Shifts &amp; Alarms

Shift: 4 Alarms: District:

## E3: Special Studies

Special Study ID#: Special Study Value:

## F: Actions Taken

Primary Action Taken(1): 11 EXTINGUISH

Additional Action Taken(2):

Additional Action Taken(3):

## G1: Resources

Apparatus Personnel

Suppression: 12 61

EMS: 1 1

Other: 5 6

## G2: Estimated Dollar Losses &amp; Values

## LOSSES:

Property: \$250

Contents: \$0

## PRE-INCIDENT VALUE:

Property: \$1,000,000

Contents: \$100,000

## H1: Casualties

Deaths

Injuries

Fire Service: 0 3

Civilian: 0 0

FDID: 15-100  
Date: 12/08/2004

CITY OF BUFFALO, NY  
INCIDENT REPORT  
Station: 26

PAGE: 2  
Prepared: 12/23/2004 10:26:46  
Incident Number: 04030678 Exp: 0

J: Property Use  
STORAGE

L: Remarks

VERY LARGE AND OLD WAREHOUSE WITH NUMEROUS ROOMS AND HALLWAYS. FIRE STARTED IN LARGE RUBBISH PILE ABOUT 50X100 FT. 2ND ALARM DUE TO SIZE OF BUILDING AND LOCATION AND SIZE OF RUBBISH PILE. 1 2 1/2 AND 3 1 3/4 INCH LINES USED. 3 FF INJURIES.

M: Authorization

(POLEJI)

Member making report ID	POLEY, JAMES I	Position or rank	Assignment	12/17/2004 MM DD YYYY

B: Property Details

B1: Residential Units: Not Residential  
B2: Buildings Involved:  
B3: Acres Burned:

C: On-site Materials or Products

(963) TRASH, NOT RECYCLABLE (1) BULK STORAGE OR WAREHOUSING

D: Ignition

D1: 40 STORAGE AREA-NOT CLASSIFIED  
D2: UU UNDETERMINED  
D3: UU UNDETERMINED  
D4: 99 MULTIPLE TYPES OF MATERIAL

E1: Cause of Ignition

5 CAUSE UNDER INVESTIGATION

E2: Factors Contributing to Ignition

(UU) UNDETERMINED

E3: Human Factors Contributing to Ignition None

F1: Equipment Involved in Ignition

CITY OF BUFFALO, NY

PAGE: 3

INCIDENT REPORT

Prepared: 12/23/2004 10:26:46 AM

FDID: 15-100

Station: 26

Incident Number: 04030678 Exp: 0

Date: 12/08/2004

F2: Equipment Power Source

F3: Equipment Portability

G: Fire Suppression Factors

(312) SIGNIFICANT FUEL LOAD STRUCTURE

(434) POOR OR NO ACCESS FOR FIRE DEPT

H1: Mobile Property Involved None

I1: Structure Type

(1) ENCLOSED BUILDING

I2: Building Status

(3) IDLE, NOT ROUTINELY USED

I3: Building Height

Above grade: 2

Below grade: 0

I4: Main Floor Size

Total square feet: 300000

Length in feet: 300,000 by 500

J1: Fire Origin

Story of fire origin: 1

J2: Fire Spread

(4) CONFINED TO BUILDING OF ORIGIN

J3: Number of Stories Damaged By Flame

Number of stories w/ minor damage: 1

Number of stories w/ significant damage: 1

Number of stories w/ heavy damage: 0

Number of stories w/ extreme damage: 0

K: Material Contributing Most To Flame Spread

K1: Item contributing most to flame spread: (96 ) RUBBISH, TRASH, WASTE

K2: Type of material contributing most to flame spread: (99 ) MULTIPLE TYPES OF MATERIAL

L1: Presence of Detectors

(U) UNDETERMINED

CITY OF BUFFALO, NY

PAGE: 4

FDID: 15-100

INCIDENT REPORT

Prepared: 12/23/2004 10:26:46

Date: 12/08/2004

Station: 26

Incident Number: 04030678 Exp: 0

---

L2: Detector Type  
( )

L3: Detector Power Supply  
( )

L4: Detector Operation  
( )

L5: Detector Effectiveness  
( )

L6: Detector Failure Reason  
( )

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M1: Presence of Automatic Extinguishment System  
(N) NONE PRESENT

CITY OF BUFFALO, NY  
INCIDENT REPORT  
Station: 26

PAGE: 1  
Prepared: 12/23/2004 10:28:24 AM  
Incident Number: 04030692 Exp: 0

FDID: 15-100  
Date: 12/09/2004

---

B: Location

STREET ADDRESS: 254 RANO ST  
BUFFALO, NY 142 -

Census Tract:  
Room/Apt:

---

C: Incident Type  
(400) HAZARDOUS CONDITION, OTHER

D: Aid Given or Received: None

E1: Dates & Times

Alarm: 12/09/2004 07:46

Arrival: 12/09/2004 07:52

Last Unit Cleared: 12/09/2004 08:14

E2: Shifts & Alarms

Shift: 1 Alarms: District:

E3: Special Studies

Special Study ID#: Special Study Value:

---

F: Actions Taken

Primary Action Taken(1): 45 REMOVE HAZARD

Additional Action Taken(2):

Additional Action Taken(3):

G1: Resources

Apparatus	Personnel
Suppression: 1	4
EMS: 0	0
Other: 0	0

G2: Estimated Dollar Losses & Values

LOSSES:

Property:

Contents:

PRE-INCIDENT VALUE:

Property:

Contents:

---

H1: Casualties

	Deaths	Injuries
Fire Service: 0	0	
Civilian: 0	0	

FDID: 15-100  
Date: 12/09/2004

CITY OF BUFFALO, NY  
INCIDENT REPORT  
Station: 26

PAGE: 2  
Prepared: 12/23/2004 10:28:24  
Incident Number: 04030692 Exp: 0

J: Property Use  
1 OR 2 FAMILY DWELLING

L: Remarks  
REMOVE HAZARD

M: Authorization  
(SMITWA)

Officer in charge ID	SMITH JR, WILLIAM A	Position or rank	Assignment	12/16/2004 MM DD YYYY
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(SMITWA)

Member making report ID	SMITH JR, WILLIAM A	Position or rank	Assignment	12/16/2004 MM DD YYYY
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B: Property Details

B1: Residential Units:  
B2: Buildings Involved:  
B3: Acres Burned:

C: On-site Materials or Products      None

D: Ignition

D1:  
D2:  
D3:

E1: Cause of Ignition

E2: Factors Contributing to Ignition      None

E3: Human Factors Contributing to Ignition      None

F1: Equipment Involved in Ignition

F2: Equipment Power Source



CITY OF BUFFALO, NY

PAGE: 3

INCIDENT REPORT

Prepared: 12/23/2004 10:28:24 AM

FDID: 15-100

Station: 26

Incident Number: 04030692 Exp: 0

Date: 12/09/2004

---

F3: Equipment Portability

G: Fire Suppression Factors      None

---

H1: Mobile Property Involved      None

---

I1: Structure Type  
( )

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*Freid and Klawon*

ATTORNEYS AND COUNSELORS AT LAW  
17 BERESFORD COURT  
WILLIAMSVILLE, NY 14221  
TEL: (716) 565-2000  
FAX: (716) 565-2002  
TEL: (716) 831-9411  
TEL: (716) 831-9412

WAYNE I. FREID, P.C.

ADAM B. CONNERS  
DAWN M. MYSZKA

ALSO ADMITTED IN FLORIDA

JOSEPH R. KLAWON  
(1948 - 1992)

Retired - Of Counsel  
FRANK T. RALABATE

FACSIMILE NOT FOR  
SERVICE OF PAPERS

VIA FACSIMILE

December 28, 2004

Brian Carr  
Assistant Regional Counsel  
EPA Region II  
290 Broadway, 17<sup>th</sup> Floor  
New York, NY 10007

Re: William P. Kraus, Sr.

Dear Mr. Carr:

Pursuant to your request in the above matter, I am faxing herewith a list of the tenants, together with a copy of the layout of the space leased to each tenant.

Thank you for your courtesy and cooperation.

Very truly yours,

FREID AND KLAWON

by: ADAM B. CONNERS

ABC:lec

A 4x4 grid of 16 hand-drawn sketches of rectangular objects, possibly boxes or containers, arranged in four rows and four columns. Each sketch is labeled with a number in the top right corner, ranging from 1 to 16. The sketches show various views and details of the objects, including some with internal structures or labels.

**CROWLEY**

428

ENCLOSED BY 7  
NUMEROUS ROSE - FENCE  
SEE LATER AT THIS  
SYSTEM

Laureano #2

CONE PL. FL. & SEEDS -  
CANE AND STEEL JAWTS.  
WOOD PL. & JOINT LARVAE  
STRAWLED PL. FLESH.

TLS. AS. F. WILK.

375

27

414

SCALE OF FEET

30 0 30

COPYRIGHT SARGENT & LLOYD

## ACD CONCRETE

525 Auburn

Buffalo, NY 14222

801-2818 1000'

376-2659

ARYL, INC.

21 Isabelle Street

Buffalo, NY 14207

838-3589 3000'

871-3444

500.00

THOMAS BARDO

8242 Birchwood Drive

Clarence, NY 14221

681-8666 800'

110.00

SCOTT BARONE

89 Palmer Street

Tonawanda, NY 14070

578-7607 2400'

525.00

BUFFALO'S ALL FIRED UP

39 Fowler

Kenmore, NY 14217

875-3764

300.00 2000'

DARDY INC. 672-4406

4470 Seneca Street 741-2060

West Seneca, NY 14224

609-3454 800'

284-6083

643-8897

225.00

DANIEL DEGENHART

245 Bryant St., APT. 107

N. Tonawanda, NY 14120

1000.00 9600'

491-3946

RICHARD DOLL

DBA ADVANCED INDUSTRIES

PO BOX 173

South Wales, NY 14139

876-9935 1500'

655-8920

225.00

ROBERT J. DRAY

PO BOX 896

Buffalo, NY 14207-0896

873-6930 20,000'

878-4935

500.00

DEAN FELTON

1169 Hertel Ave.

Buffalo, NY 14216

874-4769 800'

874-1776

225.00

GREG GAWEL

1175 Mineral Springs

West Seneca, NY 14224

826-6178 1600'

195.00

RICHARD GORSKI

918 Fillmore Ave.

Buffalo, NY 14211

864-3754

891-5410 4200'

500.00

THOMAS GROGAN

146 Royal Street

Buffalo, NY 14207

444-5027 800'

225.00

HARDY SNOWFLOW, INC.

17 Hoyer Place

Buffalo, NY 14216

874-3418 2000'

228-3418

400.00

DAVID HOFFMAN

385 Hampshire Street

Buffalo, NY 14213

832-4668 1600'

881-3528

JOSEPH KING

330 North 10th Street

Troy, NY 14260

372-5357 800'

375.00

DAVE LOMBARDO

610 Ontario Street

Buffalo, NY 14207

864-3482

602-6411

700.00

RAFAEL LOPEZ

62 Pink Street

Buffalo, NY 14206

490-9670 2000'

300.00

CRAIG McDONELL

3880 Abbott Road

Orchard Park, NY 14127

649-0938

LEFT

LEFT

PLASTIC SYSTEMS, INC.

254 Rano Street

Buffalo, NY 14207

877-1107

2500.00 120,000'

2500.00

350.00 3000'

PHONOS INTERNATIONAL

308 Crowley Street

Buffalo, NY 14207

812-2942 JOHN

873-1886 DON

843-2316 DAN

R &amp; M BUILDERS

160 E. Niagara Street

Tonawanda, NY 14150

830-7690 WIL 4000'

578-3647 MIKE

450.00

ALLEN ROSENER

117 Howell Street

Buffalo, NY 14207

875-5831

375.00 1600'

375.00

S&amp;K ENTERPRISES OF KENM

PO BOX 21

Kenmore, NY 14217

873-3720 1600'

602-7507

300.00

JAMES SCHULTZ

181 Pullman Street

Kenmore, NY 14217

876-4234 2764'

300.00

SPARTEC INDUSTRIES

21 Isabelle Street

Buffalo, NY 14207

1-973-213-0638

500.00

TITUS HOME IMPROVEMENT

PO BOX 2693

Buffalo, NY 14240-2693

893-8743 800'

225.00

LEFT

MARILYN WILLSEY

5310 14th St., WEST. LOT 1

Bradenton, FL 34207

1-941-798-3006

1-941-739-2926

300.00 800'

TED MYTNIK

200 Briarhurst Street

Williamsville, NY 14221

634-1952 TRUCK

25.00

JWNY PROPERTY CONTRACTORS

91 Laird Ave.

Buffalo, NY 14207

876-3278

300.00 2000'

300.00

15/12/20

END

Coswell

(4)  $\frac{1}{2}$

5045-150

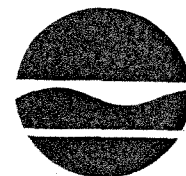
FROM-THE LAW CENTER AT WILLIAMSVILLE

66:01 6007-09 724

7155652002

T-208 P.01

KWS 1.1011



Erin M. Crotty  
Commissioner

**New York State Department of Environmental Conservation**

**Division of Environmental Remediation, 12<sup>th</sup> Floor**

625 Broadway, Albany, New York 12233-7020

Phone: (518) 402-9543 • FAX: (518) 402-9595

Website: [www.dec.state.ny.us](http://www.dec.state.ny.us)

December 22, 2004

Mr. George Pavlou  
Director  
Emergency & Remedial Response Division  
USEPA, Region II  
290 Broadway  
New York, New York 10007-1866

RE: Kraus Enterprises Warehouse  
254 Rano Street/ 21 Isabelle Street  
Buffalo (C), Erie County

Dear Mr. Pavlou:

The New York State Department of Environmental Conservation (NYSDEC) hereby requests that the United States Environmental Protection Agency (USEPA) perform an appropriate CERCLA emergency response action at the Kraus Enterprises warehouse at 254 Rano Street and 21 Isabelle Street in Buffalo, New York.

Kraus Enterprises is the owner of record at the warehouse complex at the above-noted address. During a USEPA Removal Action undertaken at the Aryl Site (Site #UU, one of Kraus's tenants in the facility), the owner submitted a letter dated April 16, 2004, which informed tenants that he was abandoning the property. A written request was made by the NYSDEC on May 18, 2004, to the USEPA to investigate residual wastes not originally part of the removal work they had completed.

In response to NYSDEC's request, the USEPA began preparation of a scope of additional work to investigate subsurface conditions proximal to the Aryl tenancy. A site visit was held with NYSDEC personnel and Kevin Matheis (USEPA), at the Aryl site on December 14, 2004. When entering the site, it was observed that the City of Buffalo issued postings informing tenants to vacate the premises. The site is currently vacant, except for a live transformer and switch area supplying power to additional, adjacent buildings apparently not part of Kraus's property. The facility is extensively deteriorated with weakened walls, roof leaks, asbestos-containing material (ACM), and a notable lack of security.

Inside of the vacated Kraus warehouse an estimated 1000+ abandoned containers of paints, solvents, petroleum, and unknown materials were observed in varying sizes (pints, 1-5-30-55 gallon cans/drums) and states of distress. Many containers indicated contents that were corrosive, flammable or toxic. Some spilled materials were observed in several areas of the warehouse, including a large waste pile that had recently been set on fire. A number of compressed gas cylinders were present throughout the site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with a large number that had been broken. Excessive amounts of abandoned solid waste presents difficulty in accessing some of the aforementioned waste materials.

Additional USEPA emergency response action is requested to identify and dispose of hazardous wastes and to determine what, if any, impacts to soil and groundwater have occurred as a result of spillage.

If you have any questions regarding this request, please contact Mr. Martin Doster, in our Region 9 office in Buffalo, at (716) 851-7220.

Sincerely,

*Andrew J. English*

Andrew J. English, P.E.  
Acting Director  
Bureau of Technical Support

cc: B. Sprague - USEPA, Region II, Edison, NJ  
G. Zachos - USEPA, Region II, Edison, NJ  
R. Salkie - USEPA, Region II, Edison, NJ





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

*pouchman  
to NY  
05/06/05*

**ACTION MEMORANDUM**

**DATE:**

**SUBJECT:** Request for a Removal Action at the Kraus Enterprise Site, Buffalo, Erie County, New York

**FROM:** Kevin M. Matheis, On-Scene Coordinator  
Removal Action Branch

**TO:** William McCabe, Acting Director  
Emergency and Remedial Response Division

**THRU:** Richard C. Salkie, Chief  
Removal Action Branch

**Site ID#:** WL

**I. PURPOSE**

The purpose of this Action Memorandum is to request and document approval of the proposed removal action described herein for the Kraus Enterprise Site (Site), located at 20 Isabelle Street, Buffalo, Erie County, New York, 14216. The proposed project ceiling is \$705,000 of which \$553,000 is for mitigation contracting.

The Site is not on the National Priorities List (NPL). There are no nationally significant or precedent-setting issues associated with the proposed removal action.

**II. SITE CONDITIONS AND BACKGROUND**

The Comprehensive Environmental Response, Compensation and Liability Information System ID Number for the Site is NYO000201939.

**ACTION MEMORANDUM****DATE:****SUBJECT:** Request for a Removal Action at the Kraus Enterprise Site, Buffalo, Erie County, New York**FROM:** Kevin M. Matheis, On-Scene Coordinator  
Removal Action Branch**TO:** William McCabe, Acting Director  
Emergency and Remedial Response Division**THRU:** Richard C. Salkie, Chief  
Removal Action Branch**Site ID#:** WL**I. PURPOSE**

The purpose of this Action Memorandum is to request and document approval of the proposed removal action described herein for the Kraus Enterprise Site (Site), located at 20 Isabelle Street, Buffalo, Erie County, New York, 14216. The proposed project ceiling is \$705,000 of which \$553,000 is for mitigation contracting.

The Site is not on the National Priorities List (NPL). There are no nationally significant or precedent-setting issues associated with the proposed removal action.

**CONCURRENCES**

Name: Krauss Enterprises Init: sb Date: 04/28/05 Filename: AM#0260

Symbol	ERRD-RAB	ERRD-RAB	ERRD-RAB	ORC-NYSCUP				
Surname	Matheis	Rojala	Salkie	Lieber				
Date	5/10/05	5/11/05	5/10/05					

## II. SITE CONDITIONS AND BACKGROUND

The Comprehensive Environmental Response, Compensation and Liability Information System ID Number for the Site is NYO000201939.

### A. Site Description

#### 1. Removal site evaluation (RSE)

On December 22, 2004, the New York State Department of Environmental Conservation (NYSDEC) requested that EPA evaluate the Kraus Enterprise Site for a Superfund removal action. In the referral request, the NYSDEC informed EPA that the vacated Kraus Enterprise warehouse contains an estimated 1000+ abandoned containers of paints, solvents, petroleum, and unknown materials which were observed in varying sizes (pints, 1-5-30-55 gallon cans/drums) and stages of deterioration. As discussed below, this referral was based on a joint inspection conducted by the NYSDEC and EPA. The referral is included as Attachment 1.

The Site consists of a former industrial building which was subdivided into approximately 50 tenant spaces and rented for storage and industrial use. The Site, which is owned by Kraus Enterprise, operated until April 2004. In April 2004, William Kraus, the owner of Kraus Enterprise, notified the approximately 21 tenants that he was abandoning the property. In July and August 2004, the City of Buffalo Housing Court ordered all remaining tenants of the building to vacate the property due to the unsafe conditions in the building. From August to December 2004, former tenants vacated the property, and may have abandoned chemicals that remained in their rented spaces.

EPA has previously performed a removal action within a portion of the Site. The Aryl Corp. Superfund Site (Aryl Site) consists of a portion of the Site where Aryl Corp., a defunct former Kraus Enterprise tenant, had abandoned numerous containers of hazardous substances. See Aryl Corp. Superfund Site Action Memorandum dated January 30, 2004. EPA began its removal action at the Aryl Site in December 2003. On December 14, 2004, EPA accompanied the NYSDEC to the Aryl Site for the purpose of reviewing the removal action that was conducted by EPA. At that time, in response to the deteriorating conditions of the abandoned Kraus Enterprise property, a joint inspection of Kraus Enterprise was conducted, resulting in the December 22, 2004 NYSDEC referral request.

As documented in the referral request, EPA and NYSDEC identified releases and potential releases of hazardous substances in drums and other containers located at the Site during the December 14, 2004 joint inspection. Many containers found at the Site had labeling which indicated the contents that were corrosive, flammable or toxic. Some spilled materials were observed in several areas of the warehouse, including a large waste pile that had recently been set on fire. A number of compressed gas cylinders were present throughout the Site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with a large number that

had been broken. Excessive amounts of abandoned solid waste limited access to some of the abandoned waste materials. In addition, suspected asbestos-containing materials (ACM) was observed, both on piping and floor areas.

In response to the referral, EPA prepared an expedited removal assessment (ERA) (copy attached). An EPA attorney notified the property owner of EPA's need for continued access to the site buildings. A tenant list and layout map of the Site were provided to EPA by the Mr. Kraus' attorney.

EPA conducted an investigation of the Site on January 13, 2005 to further document the presence of hazardous substances and substantiate the threat to human health and the environment. EPA observed that in the time period since the December 14, 2004 investigation, the City of Buffalo had secured the buildings to the extent practical. Although one doorway remained open, numerous gaping holes in the buildings had been boarded up. Upon entry into the building, EPA found that the floor was covered by two to four inches of water. Three six-inch water mains had broken and were leaking throughout the building, spilling the water from water mains in the three buildings into the street and sewers.

EPA found hazardous substances in various containers throughout the Site. The estimated 1000+ abandoned containers in varying sizes (pints, 1-5-30 gallon cans/drums) of paints, solvents, petroleum wastes, and unknown materials which were previously observed at the December 14, 2004 joint inspection remain at the Site in various stages of deterioration. The containers are stored without regard to chemical compatibility. Based on a review of available drum/container labels, corrosive, flammable and toxic materials are present, including materials within the definition for RCRA-regulated D001 oxidizers and D002 corrosives. These include flammable materials such as acetone, ether acetate, topcoat paint, laquer, mineral spirits, methanol, toluene and xylene. Other hazardous substances at the Site include ammonium hydroxide, ethyl acetate, ethylene glycol, hexane, hydrochloric acids, and caustic detergents (pH >12.5).

Some spilled materials were observed in several areas of the warehouse, including a large waste pile with unknown containers within the pile that had recently been set on fire. EPA also found flammable compressed gases in approximately 30 compressed gas cylinders scattered throughout the Site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with some having been vandalized and broken. In addition, approximately forty 55-gallon drums were observed to be abandoned on-site. Drum labels were not readily visible due to the debris pushed into the drum piles. Other drums contained unknown materials as no labels were evident. One of the 55-gallon drums within the buildings had been completely spilled onto the floor. Several of the drums and containers were observed to be in a deteriorated state and there is evidence of spillage. Potential releases to the environment may have occurred through pits and sumps in the floors. Excessive amounts of abandoned solid waste and flooding in the buildings from the three water main breaks presented difficulty in accessing some of the aforementioned waste materials.

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Some spilled materials were observed in several areas of the warehouse, including a large waste pile with unknown containers within the pile that had recently been set on fire. EPA also found flammable compressed gases in approximately 30 compressed gas cylinders scattered throughout the Site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with some having been vandalized and broken. In addition, approximately forty 55-gallon drums were observed to be abandoned on-site. Drum labels were not readily visible due to the debris pushed into the drum piles. Other drums contained unknown materials as no labels were evident. One of the 55-gallon drums within the buildings had been completely spilled onto the floor. Several of the drums and containers were observed to be in a deteriorated state and there is evidence of spillage. Potential releases to the environment may have occurred through pits and sumps in the floors. Excessive amounts of abandoned solid waste and flooding in the buildings from the three water main breaks presented difficulty in accessing some of the aforementioned waste materials.

## **2. Physical location**

The Site is located in a mixed commercial and residential area in the Riverside section of the City of Buffalo, Erie County, New York. Isabelle Street runs along the northwest edge of the Site and Crowley Ave borders the southwest edge of the Site. Bordering the Site along the eastern edge is a commercial rail-line. The Site is one block east/southeast of Ontario Ave., a main commercial street within the Riverside section of Buffalo. Both Isabelle and Crowley contain residential properties directly across from the Site. There are approximately 7,399 persons comprising 3,353 households within a ½ mile radius of the Site, and approximately 30% of those persons are aged 17 or younger, and approximately 14% are aged 60 and older.

The site property is approximately 2 acres in size and the site building covers most of the site property. These interconnected buildings include former warehouse tenant spaces. These tenants used portions of the building for various manufacturing operations and warehouse storage.

## **3. Site characteristics**

EPA's Enforcement Team is investigating Site operational history and former occupants and operators of the buildings. Historical Sanborn maps have indicated that the Site buildings were constructed in 1910 and operated initially by the King Sewing Machine Company. Another Sanborn map from the 1960's indicates that Sylvania Electric Products operated at the facility. At some point, Kraus Enterprise acquired the Site buildings and began operations.

This is the first Action Memorandum for the Site.

## **4. Release or threatened release into the environment of a hazardous substance, or pollutant, or contaminant**

The hazardous substances identified by EPA as part of the RSE and information obtained during the site inspections includes the following hazardous substances, as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. 9601 et seq.

Material	Quantity	Storage Method	Primary Hazard	Statutory Source for Designation as a Hazardous Substance
Asbestos	~1,000 linear feet and 100 cubic yards of debris	None. Hanging from piping and scattered throughout the building in debris piles	Carcinogen	1, 2
Flammable Liquids - Paints and solvents, propane cylinders	~500 containers	1 pint - 5 gallon pails	Flammable (D001)	3
Corrosive Detergents and Cleaners	~500 containers.	1 pint - 5 gallon pails	Corrosive (D002)	3

Notes: 1 - CWA Section 307(a)  
2 - CAA Section 112  
3 - RCRA Section 3001

The suspected asbestos in the building is in poor condition and much of it has collapsed onto the floors. Some of the asbestos has been swept into large debris piles and abandoned. Asbestos is designated as a CERCLA hazardous substance under 40 CFR §302.4 when it is friable. Friability is the ease with which a material can be crumbled, pulverized or reduced to powder, when dry, by hand pressure. The more easily that a material crumbles, the greater the potential for fiber release. Once released, asbestos fibers have the ability to remain airborne for an extended period of time. Much of the asbestos-containing material in the buildings on-site is extremely friable due to its exposure to the elements.

The building's partially collapsed roof and open windows represent mechanisms for release of asbestos fibers into the environment. When asbestos-containing materials (ACM) are exposed to the elements, the potential for the off-Site migration of asbestos fibers is significantly increased. The potential for future releases can only be exacerbated by further deterioration of the buildings and/or release from the Site by the threat of fire and/or explosion. Once on-site, EPA will sample to confirm the presence of asbestos in the buildings. EPA will remove the asbestos on a case-by-case basis, depending on the condition of it. EPA may leave asbestos pipes in place and use an encapsulant to prevent asbestos fibers from releasing.



The small containers of paint-related materials and corrosive cleaners are scattered throughout the facility. The containers are stored without regard to chemical compatibility. On December 7 and 8, 2004, a fire occurred in an area of chemical storage. A 40 cubic yard pile of debris remains on-site with various containers of materials within the site debris.

Approximately 30 compressed gas cylinders were present throughout the Site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with some having been vandalized and broken. Excessive amounts of abandoned solid waste and flooded buildings from the three water main breaks presented difficulty in accessing some of the aforementioned waste materials.

In addition to the smaller containers, approximately 40 55-gallon drums were observed to be abandoned on-site. Drums labels were not readily visible due to the debris pushed into the drum piles. Other drums contained unknown materials, since no labels were evident. One of the 55-gallon drums within the buildings had been completely spilled onto the floor.

This removal action addresses the disposal of these hazardous materials from the Site.

#### **5. NPL status**

The Site is not listed on the NPL, and there are no efforts underway to include the Site on the NPL.

#### **6. Maps, pictures, and other graphic representations**

Figures 1, 2, and 3 are included as Attachment 2 and provide the location and configuration of the Site.

### **B. Other Actions to Date**

#### **1. Previous actions**

EPA implemented a removal action at the Aryl Site, at the warehouse unit of Aryl Corp., a former tenant of the Kraus Enterprise Site which comprised a portion of the Kraus Enterprise Site. At the time, portions of the property were occupied by active businesses.

In July and August 2004, the City of Buffalo Housing Court ordered all remaining tenants of the building to vacate the property due to the poor condition of the building.

#### **2. Current actions**

The City of Buffalo has taken steps to secure the Site buildings after the December 2004 fires at the Site. The Site remains vacant and idle, with trespassing and vandalism continuing.

**C. State and Local Authorities' Role**

**1. State and local actions to date**

No City of Buffalo or NYSDEC cleanup actions have occurred to date at the Site.

**2. Potential for continued State/local response**

There are no actions being taken by State or local government agencies to address the hazardous substances located at the Site.

**III. THREATS TO PUBLIC HEALTH, OR WELFARE, OR THE ENVIRONMENT AND STATUTORY AND REGULATORY AUTHORITIES**

**A. Threats to Public Health or Welfare**

The conditions at the Site meet the criteria for a CERCLA removal action under 40 CFR Part 300.415(b)(2) of the National Contingency Plan. Factors that support conducting a removal action at the Site include:

- (i) **Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, or pollutants, or contaminants;**

There has been and continues to be a release and potential release of CERCLA-designated hazardous substances from the Site, which is defined as a facility under section 101(9) of CERCLA. As a result, there is a potential exposure to hazardous substances by nearby populations.

The hazardous substances include an estimated 1000+ abandoned containers of paints, solvents, petroleum wastes, and unknown materials were observed in varying sizes (pints, 1-5 30-gallon cans/drums) in various stages of deterioration. Many containers had labels that indicated their contents were corrosive, flammable or toxic. Based on a review of available drum/container labels, flammable materials (acetone, ether acetate, topcoat paint, laquer, mineral spirits), hydrochloric acids, and caustic detergents (pH >12.5) are present. Some spilled materials were observed in several areas of the warehouse, including a large waste pile ( with unknown containers within) that had recently been set on fire. A number of compressed gas cylinders were present throughout the Site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with some having been vandalized and broken. Hazardous substances found at the Site include acetone, ammonium hydroxide, ethyl acetate, ethylene glycol, hydrochloric acid, hexane, methanol, toluene and xylene.

Approximately 40 55-gallon drums were observed to be abandoned on-site. Drums labels were not readily visible due to the debris pushed into the drum piles. Other drums contained unknown materials, since no labels were evident. One of the 55-gallon drums within the buildings had been completely spilled onto the floor.

There is evidence of spillage from drums and other containers, possibly to the environment, through pits and sumps in the floor. Several of the drums and containers were observed to be in a deteriorated state. In addition, suspected asbestos-containing materials and asbestos insulation were observed on piping and on the floor. Although the Site is temporarily secured to some degree, it has been the subject of frequent break-ins and vandalism. Evidence of vagrants and homeless are found in the site buildings. Releases from asbestos, drums and laboratory containers have occurred and continue to occur at the Site, presenting a threat to public health and welfare.

**(iii) Hazardous substances, or pollutants, or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release;**

The hazardous substances within the containers on-site present a threat of continuing release. One of the 55-gallon drums was tipped over, spilling its contents onto the floor. Other drums were mixed with the site debris and may have released their contents, but were inaccessible due to current site conditions.

The Buffalo Fire Department responded to two fires in December 2004 at the warehouse involving debris mixed with hazardous substances.

**(v) Weather conditions that may cause hazardous substances, pollutants, or contaminants to migrate or be released; and**

Some of the roofs in the Site buildings are in poor condition. The City of Buffalo ordered tenants to vacate the building due to unsafe conditions at the Site. Snow melt and rainfall contribute to the decay of the building structure and may cause additional parts of the roof to collapse, causing further deterioration to the asbestos and containers of hazardous substances. Containers of hazardous substances will be exposed to a freeze/thaw cycle since the Site has no utilities. Some of the containers at the Site may release their contents as a result. Due to the cold weather, water mains within the buildings have ruptured, causing releases of materials within the Site and off-site.

**(vi) Threat of fire or explosion;**

The Site contains approximately 1,000 various size containers of paint-related material, thinners and compressed gases that are flammable. Some of the containers are in poor condition and are leaking. The containers are being stored without regard to chemical compatibility. In December 2004, fires occurred at the Site on two separate occasions. In addition to airborne releases of hazardous substances in the event of a fire, asbestos fibers would also be released from the Site.

- (vii) **The availability of other appropriate federal or State response mechanisms to respond to the release.**

No other federal or State response mechanism is available to respond to the significant threat which the Site presents.

#### **B. Threats to the Environment**

The conditions at the Site meet the criteria for a CERCLA removal action under 40 CFR Part 300.415(b)(2) of the National Contingency Plan. Factors that support conducting a removal action at the Site include:

- (i) **Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, or pollutants, or contaminants;**

The Site is temporarily secured, but has been the subject of frequent break-ins and vandalism. Evidence of vagrants and homeless are found in the site buildings. The containers of hazardous substances and asbestos in the buildings present a threat to public health and welfare. Releases from asbestos, drums and laboratory containers have occurred and continue to occur at the Site. These releases, particularly airborne releases and run-off resulting from a chemical fire or asbestos release, may present a threat to the environment.

- (v) **Weather conditions that may cause hazardous substances, pollutants, or contaminants to migrate or be released; and**

Some of the roofs in the site buildings are in poor condition. The City of Buffalo ordered tenants to vacate the building due to unsafe conditions at the Site. Snow melt and rainfall contribute to the decay of the building structure and may cause additional parts of the roof to collapse, causing further deterioration to the asbestos and containers of hazardous substances. Containers of hazardous substances will be exposed to a freeze/thaw cycle since the Site has no utilities. The containers at the Site may release their contents as a result. Due to the cold weather, water mains within the buildings have ruptured and caused potential releases of hazardous substances within the site buildings and off-site, thereby posing a threat to the environment.

#### **IV. PROPOSED ACTION DESCRIPTION AND ESTIMATED COSTS**

- a. **Stabilization - All containers that are open or of questionable integrity will be over-packed or transferred into new containers. Containers will be placed in compatible waste groups and removed from areas containing asbestos.**

- b. Sampling - All containers will be inventoried and sampled as appropriate. Where possible, composite samples will be taken to reduce the total amount of samples analyzed. Areas of asbestos contamination will be sampled to confirm and/or delineate the presence of asbestos in Site debris.
- c. Analysis - All samples will be evaluated for compatibility. The samples will be analyzed for disposal parameters, which will include the full toxicity characteristic leaching procedure (TCLP) analysis.
- d. Disposal - Upon receipt of disposal analysis, waste profiles will be completed and sent to disposal facilities for acceptance. Compatible materials will be sent to off-site disposal facilities in compliance with EPA's Off-Site Disposal Rule.
- e. Asbestos Abatement - Some of the areas at the Site which contain drums and other containers of hazardous substances are situated in highly contaminated asbestos areas. During the stabilization and sampling phase, areas that contain the greatest concentrations of asbestos will be addressed prior to cleanup actions. An asbestos abatement contractor will abate the asbestos from these areas. Once these areas are abated, workers will proceed with hazardous substance stabilization, sampling and disposal. EPA will only remove asbestos that exhibits active releases, such as damaged areas and areas where the asbestos has fallen to the ground. Other areas of asbestos will be encapsulated and left in place.
- f. Other areas of concern, including the pits and sumps in the floors, will be evaluated and addressed, as necessary.

## **2. Contribution to remedial performance**

The Site is not presently on the NPL. The response measures proposed in this Action Memorandum will address the threats posed to public health through removal of hazardous substances. The proposed action will contribute effectively to any long-term remedial action with respect to the release or threatened release of hazardous substances at the Site.

## **3. Description of alternative technologies**

Because of the quantities and types of the hazardous substances and/or wastes at the Site, on-site treatment and/or incineration is not appropriate. The selected removal action includes the characterization of hazardous substances found at the Site and the transportation of all hazardous substances off-site for treatment and/or disposal. The selected removal action has been determined to be the appropriate response action for the Site based upon the criteria of effectiveness, implement ability and cost.

#### 4. EE/CA

Due to the time-critical nature of this removal action, an EE/CA will not be prepared.

#### 5. Applicable or Relevant and Appropriate Requirements (ARARS)

ARARS that are within the scope of this removal action will be met to the extent practicable. Federal ARARS determined to be applicable for the proposed scope of work include the RCRA, Occupational Safety and Health Act and Hazardous Materials Transportation Uniform Safety Act.

#### 6. Project schedule

It is anticipated that the project will be completed within four months. Four phases will be implemented, each taking different time-frames to complete. Phase one will be mobilization to the Site with consolidation, stabilization, and/or sampling of drums, cylinders and containers of hazardous substances. Phase two will be the asbestos assessment, abatement, and/or encapsulation within the site buildings that are structurally sound. Phase three will be the disposal of hazardous substances. Phase 4 will be the site demobilization.

##### Estimated Costs:

The estimated costs for the completion of this project are summarized below. Detailed costs are included as Attachment 3.

##### Extramural Costs:

##### Regional Allowance Costs:

ERRS Cost	\$ 481,000
15% contingency	\$ 72,000
Total ERRS Cost	\$ 553,000

##### Other Extramural Costs Not Funded From the Regional Allowance:

Total RST costs	\$ 60,000
<b>SUBTOTAL, EXTRAMURAL COSTS</b>	<b>\$ 613,000</b>

Extramural Cost Contingency (15%)	\$ 92,000
TOTAL EXTRAMURAL COSTS	\$ 705,000
TOTAL, REMOVAL PROJECT CEILING	\$ 705,000

#### **V. EXPECTED CHANGE IN THE SITUATION SHOULD NO ACTION BE TAKEN OR ACTION DELAYED**

Should no action be taken or the planned action be delayed, hazardous substances such as asbestos in Site buildings, and hazardous substances contained in drums, maintenance chemicals, light bulbs and cylinders could be released. A release of hazardous substances from the Site could result in the exposure of the neighboring population and/or contamination of the environment. Releases of contaminants to the air and additional soil contamination could increase the cost of the required removal action.

#### **VI. OUTSTANDING POLICY ISSUES**

No known outstanding policy issues are associated with the Site.

#### **VII. ENFORCEMENT**

As appropriate, cost recovery will be sought from viable potentially responsible parties (PRPs), if any, with the support of the Office of Regional Counsel and the Removal Action Branch. It appears that both Kraus Enterprise and various tenants of the warehouse are PRPs for the Site. Due to the lack of a viable PRP at this time and the condition of the Site buildings, EPA will continue the Site work funded by the Superfund.

##### **Enforcement Cost Estimate**

Based on full cost accounting practices, the total EPA costs for this removal action that will be eligible for cost recovery are estimated to be \$1,049,000, as follows:

##### **EPA's Total Estimated Project-Related Costs**

$\$705,000$  (direct extramural costs) +  $\$100,000$  (direct intramural costs) =  $\$805,000$   
 $30.30\%$  (Region-specific Indirect Cost Rate) x  $\$805,000$  =  $\$244,000$  (rounded indirect costs)

$\$805,000 + \$244,000 = \$1,049,000$  (Estimated EPA Costs for Removal Action)

Note: Direct costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual costs from this estimate will affect the United States' right to cost recovery.

### VIII. RECOMMENDATION

This decision document represents the selected removal action for the Kraus Enterprise Site in the City of Buffalo, New York, developed in accordance with CERCLA, as amended, and is consistent with the NCP. This decision is based on the Administrative Record for the Site.

Conditions at the Site meet the NCP Section 300.415(b)(2) criteria for a removal action and I recommend your approval of the proposed removal action. The total project ceiling for this removal action, if approved, will be \$705,000. Of this, an estimated amount of \$553,000 will come from the FY-05 Regional Advice of Allowance for mitigation contracting.

Please indicate your approval, or disapproval, and authorization of funding as per current Delegation of Authority, by signing below.

**APPROVAL:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
 William McCabe, Acting Director  
 Emergency and Remedial Response Division

**DISAPPROVAL:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
 William McCabe, Acting Director  
 Emergency and Remedial Response Division

cc: (after approval)

W. McCabe, ERRD-AD  
 R. Basso, ERRD-ADD  
 R. Salkie, ERRD-RAB  
 J. Rotola, ERRD-RAB  
 J. Witkowski, ERRD-RAB  
 G. Zachos, ACSM/O  
 T. Lieber, ORC-NYCSUP  
 P. Brandt, PAD  
 R. Manna, OPM-FMB  
 T. Riverso, OPM-FIN

T. Grier, 5202G  
 P. McKechnie, IG  
 D. Desnoyers, NYSDEC  
 A. English, NYSDEC  
 A. Raddant, DOI  
 J. Steger, NOAA  
 L. Battes, NYSEMO  
 C. Kelley, RST



# **Attachment 1**

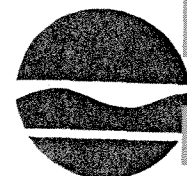
*NYSDEC Referral*

**New York State Department of Environmental Conservation  
Division of Environmental Remediation, 12<sup>th</sup> Floor**

625 Broadway, Albany, New York 12233-7020

Phone: (518) 402-9543 • FAX: (518) 402-9595

Website: [www.dec.state.ny.us](http://www.dec.state.ny.us)



Erin M. Crotty  
Commissioner

December 22, 2004

Mr. George Pavlou  
Director  
Emergency & Remedial Response Division  
USEPA, Region II  
290 Broadway  
New York, New York 10007-1866

RE: Kraus Enterprises Warehouse  
254 Rano Street/ 21 Isabelle Street  
Buffalo (C), Erie County

Dear Mr. Pavlou:

The New York State Department of Environmental Conservation (NYSDEC) hereby requests that the United States Environmental Protection Agency (USEPA) perform an appropriate CERCLA emergency response action at the Kraus Enterprises warehouse at 254 Rano Street and 21 Isabelle Street in Buffalo, New York.

Kraus Enterprises is the owner of record at the warehouse complex at the above-noted address. During a USEPA Removal Action undertaken at the Aryl Site (Site #UU, one of Kraus's tenants in the facility), the owner submitted a letter dated April 16, 2004, which informed tenants that he was abandoning the property. A written request was made by the NYSDEC on May 18, 2004, to the USEPA to investigate residual wastes not originally part of the removal work they had completed.

In response to NYSDEC's request, the USEPA began preparation of a scope of additional work to investigate subsurface conditions proximal to the Aryl tenancy. A site visit was held with NYSDEC personnel and Kevin Matheis (USEPA), at the Aryl site on December 14, 2004. When entering the site, it was observed that the City of Buffalo issued postings informing tenants to vacate the premises. The site is currently vacant, except for a live transformer and switch area supplying power to additional, adjacent buildings apparently not part of Kraus's property. The facility is extensively deteriorated with weakened walls, roof leaks, asbestos-containing material (ACM), and a notable lack of security.

Inside of the vacated Kraus warehouse an estimated 1000+ abandoned containers of paints, solvents, petroleum, and unknown materials were observed in varying sizes (pints, 1-5-30-55 gallon cans/drums) and states of distress. Many containers indicated contents that were corrosive, flammable or toxic. Some spilled materials were observed in several areas of the warehouse, including a large waste pile that had recently been set on fire. A number of compressed gas cylinders were present throughout the site. Hundreds of mercury-containing fluorescent and metal-halide bulbs were stockpiled, with a large number that had been broken. Excessive amounts of abandoned solid waste presents difficulty in accessing some of the aforementioned waste materials.

Additional USEPA emergency response action is requested to identify and dispose of hazardous wastes and to determine what, if any, impacts to soil and groundwater have occurred as a result of spillage.

If you have any questions regarding this request, please contact Mr. Martin Doster, in our Region 9 office in Buffalo, at (716) 851-7220.

Sincerely,

*Andrew J. English*

Andrew J. English, P.E.  
Acting Director  
Bureau of Technical Support

cc: B. Sprague - USEPA, Region II, Edison, NJ  
G. Zachos - USEPA, Region II, Edison, NJ  
R. Salkie - USEPA, Region II, Edison, NJ

## **Attachment 2**

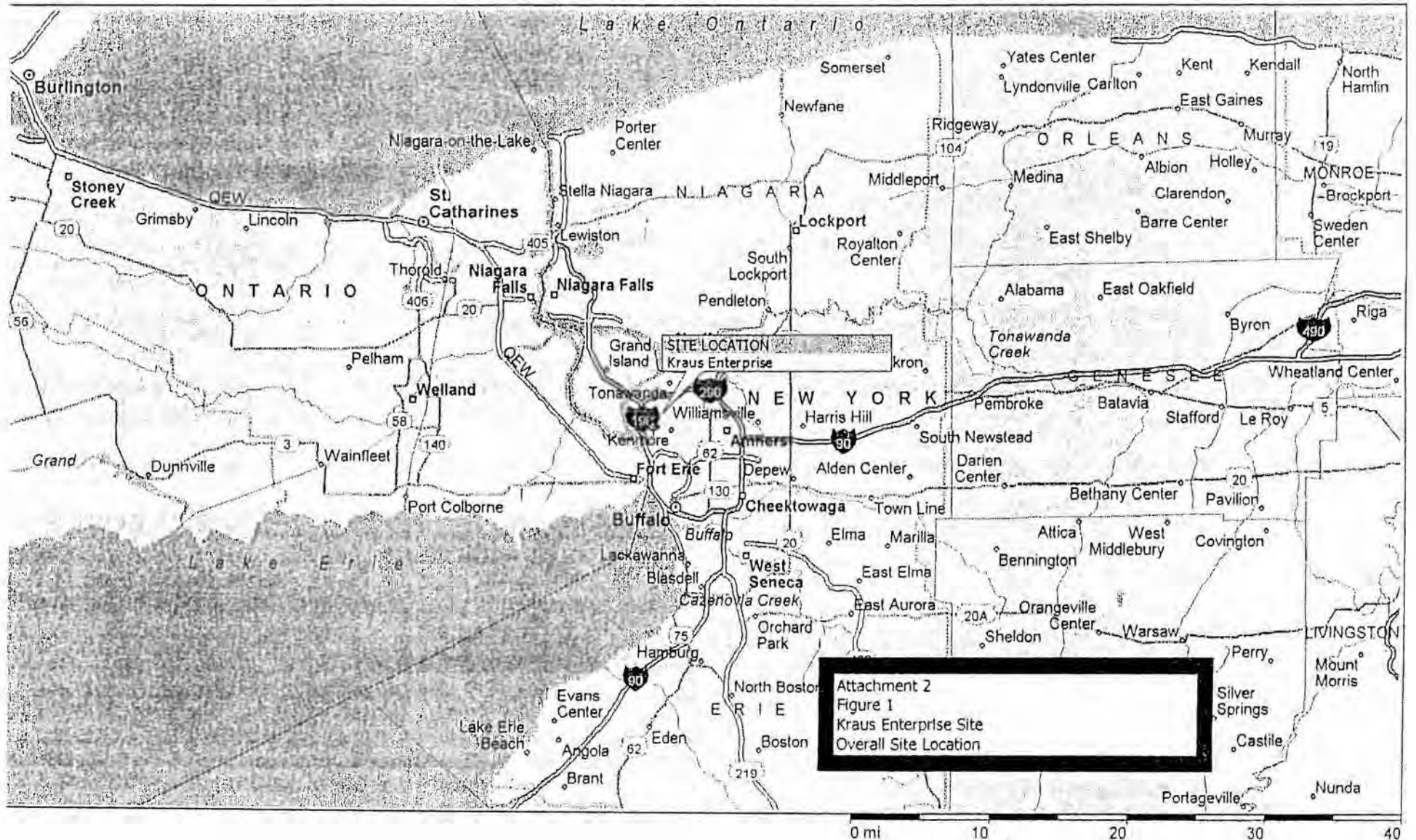
### *Maps and Photos*

*Figure 1 - Site Location*

*Figure 2 - Site Location*

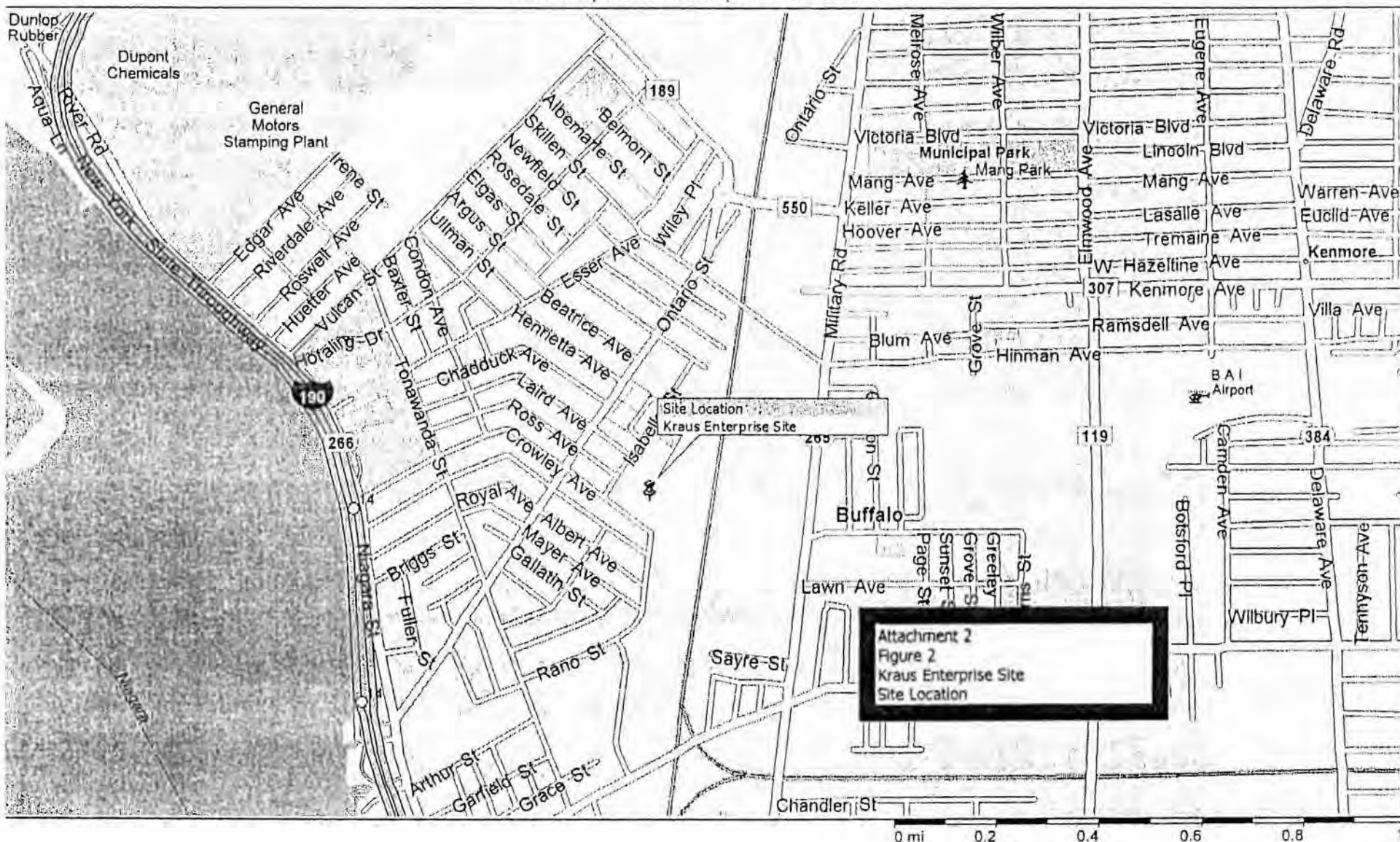
*Figure 3 - Site Aerial Photo*

# North America



KWS 2.5019

# Buffalo, New York, United States



Attachment 2  
Figure 2  
Kraus Enterprise Site  
Site Location

KWS 2.5020





Attachment 3  
Figure 3  
Kraus Enterprise Site  
Aerial Photograph of Site Buildings

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**United States Environmental Protection Agency  
Region 2  
POLLUTION REPORT**

**Date:** Monday, December 22, 2003  
**From:** Mark Gallo, On-Scene Coordinator

**To:** Bruce Sprague, EPA 2ERRD-RPB  
John Higgins, EPA 2ERRD-RPB  
Michael Basile, EPA 2PAD  
Dennis Sutton, City of Buffalo  
Elizabeth Zimmermann, EPA 2PAD  
Mary Mears, EPA 2PAD  
Doug Knorr, EPA 2CID  
John LaPadula, EPA 2ERRD-NYRB  
Arthur Block, ATSDR  
Robert Marino, NYSDEC  
Andrew Raddant, US DOI

Eric Mosher, EPA 2ERRD-RPB  
Jim Daloia, EPA 2ERRD-RPB  
Brian Carr, EPA 2ORC  
David Szymanski, NY State DEC  
Craig Beasley, EPA HQ 5202G  
Paul Zammit, EPA 2OIG  
David Dillon, EPA, 2CID  
Kevin Bricke, EPA 2DEPP  
Carl Kelley, RST  
Dennis Farrar, NYSDEC

**Subject:** Initial Response Action  
Aryl Inc.  
21 Isabelle Street, Buffalo, NY

<b>POLREP No.:</b>	1	<b>Site #:</b>	UU
<b>Reporting Period:</b>	December 13 - 20, 2003	<b>D.O. #:</b>	0084
<b>Start Date:</b>	12/13/2003	<b>Response Authority:</b>	CERCLA
<b>Mob Date:</b>	12/13/2003	<b>Response Type:</b>	Emergency
<b>Completion Date:</b>		<b>NPL Status:</b>	Non NPL
<b>CERCLIS ID #:</b>		<b>Incident Category:</b>	Removal Action
<b>RCRIS ID #:</b>	NYD034557108	<b>Contract #</b>	68-S2-99-08

### Site Description

Aryl Inc. (the Site) occupies shop and warehouse space at 21 Isabelle Street, Buffalo, NY. Aryl Inc. is one of 23 tenants at 21 Isabelle Street. Aryl Inc. was formerly Niagara Aromatics and Niagara Technologies. Niagara Aromatics was a small chemical production facility that was initially set up to produce a dye for a larger cosmetics manufacturer. In 1985, the company shifted focus towards the manufacture of chemical intermediates for the pharmaceutical industry and changed names to Niagara Technologies. In 1986, Niagara Technologies ran out of funding and closed its doors. The owner of Niagara Technologies later incorporated Aryl Inc. to produce finished metal products such as boating rails. Aryl Inc. currently occupies the same shop and warehouse space as the former Niagara Aromatics and Niagara Technologies. Aryl Inc. still contains chemicals from the former Niagara Aromatics and Niagara Technologies operations.

The Site is located in a light-industrial / residential area with approximately 7800 people living within a 1/2 mile radius. Residential properties border the site from the northern point along Isabelle Street to the southern point along Crowley Ave.

On December 11, 2003, the New York State Department of Environmental Conservation (NYSDEC) requested that EPA conduct a Removal Site Evaluation (RSE) at Aryl Inc. On December 12, 2003, EPA and its Removal Support Contract (RST) personnel mobilized to the Site and conducted an RSE. EPA observed many containers of hazardous substances stored in poor

hazard materials.

**Estimated Costs \***

	<b>Budgeted</b>	<b>Total To Date</b>	<b>Remaining</b>	<b>% Remaining</b>
<b>Extramural Costs</b>				
ERRS - Cleanup Contractor	\$168,602.00	\$3,987.16	\$164,614.84	97.64%
RST/START	\$30,000.00	\$3,800.00	\$26,200.00	87.33%
<b>Intramural Costs</b>				
<b>Total Site Costs</b>	<b>\$198,602.00</b>	<b>\$7,787.16</b>	<b>\$190,814.84</b>	<b>96.08%</b>

\* The above accounting of expenditures is an estimate based on figures known to the OSC at the time this report was written. The OSC does not necessarily receive specific figures on final payments made to any contractor(s). Other financial data which the OSC must rely upon may not be entirely up-to-date. The cost accounting provided in this report does not necessarily represent an exact monetary figure which the government may include in any claim for cost recovery.

[www.epaosc.net/aryl](http://www.epaosc.net/aryl)

condition. Some of the high-hazard substances included water reactives such as phosphorous oxychloride and sodium methylate; toxics including dimethyl sulfate, bromine and dichlorodinitrobenzene; corrosives such as hydrofluoric acid and hydrogen chloride; flammable alcohols and potentially shock-sensitive ethers. Discussion and interviews with the Responsible Party (RP) indicated that the RP did not have the funding to conduct a removal action. The RP stated that the chemicals are not used by Aryl Inc. for any of its current operations. On December 12, 2003, the EPA OSCs obtained a verbal authorization for funding based on the hazardous nature of the chemicals stored on-site and the poor condition in which they were being stored. On December 13, 2003, EPA mobilized its Emergency and Rapid Response Services (ERRS) contractor to establish site security and to begin the development of a work plan for the removal action.

### **Current Activities**

During the week of December 13 - 20, 2003, EPA began the development of a full site work plan to address the hazardous constituents on site.

EPA's first priority was to secure the site to prevent entry by unauthorized personnel. EPA's ERRS contractor mobilized an armed security guard on December 13, 2003. A security guard will be on site 24/7 until completion of the job or until such time that all potential chemical hazards to the public have been addressed.

EPA's second priority was to contact the owner/distributor of the two, 2000 psi chlorine cylinders staged on site. Markings on the cylinders showed the owner/distributor to be JCI Jones Chemical Co. EPA contacted JCI on December 16, 2003 to request return of the cylinders to JCI. JCI Jones Chemical Company representatives arrived on site and removed the 2 chlorine cylinders on December 17, 2003.

On December 19, 2003, EPA and RST collected 3 samples of debris that appeared to be Asbestos Containing Material (ACM). Polarized Light Microscopy (PLM) analytical results of those samples indicated the debris contained chrysotile asbestos in the ranges of 50 - 67 %. These 3 samples were collected within the Aryl Inc. Reactor Vessel Room.

EPA also contacted the Erie County OEM, the local FD along with other local agencies. EPA met on site with County OEM and local agencies on December 19, 2003 to discuss the potential hazards of the site, the planned removal actions and the estimated project schedule.

### **Planned Removal Actions**

EPA and its ERRS contractor are working on the development of site work plan and site health and safety plan (HASP). Upon completion of the plans, EPA expects to mobilize personnel, equipment, and support infrastructure to conduct a removal action. Mobilization is expected on or about Jan 7, 2003.

### **Next Steps**

- Completion of Site Work Plan and HASP
- Mobilize personnel, equipment and support infrastructure to implement site work plan.
- Clearing of debris and obstructions to assure a safer work environment for handling hazardous wastes.
- Proper packaging and off-site shipment of hazardous wastes.

### **Key Issues**

- Removal of high-hazard wastes including phosphorous oxychloride, sodium methalate, bromine, hydrofluoric acid, ethers, dimethyl sulfate, dichlorodinitrobenzene.
- Develop an evacuation plan for local employees and residences during handling of high-

**United States Environmental Protection Agency  
Region II  
POLLUTION REPORT**

**Date:** Friday, April 15, 2005  
**From:** Mark Gallo, On-Scene Coordinator

<b>To:</b> Bruce Sprague, EPA 2ERRD-RPB John Higgins, EPA 2ERRD-RPB Michael Basile, EPA 2PAD Dennis Sutton, City of Buffalo Arthur Block, ATSDR Robert Marino, NYSDEC Andrew Raddant, US DOI	Eric Mosher, EPA 2ERRD-RPB Jim Daloia, EPA 2ERRD-RPB Brian Carr, EPA 2ORC David Szymanski, NY State DEC Carl Kelley, RST Dennis Farrar, NYSDEC
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**Subject:** Final POLREP  
 Aryl Inc.  
 21 Isabelle Street, Buffalo, NY  
 Latitude: 42.952755  
 Longitude: -78.898161

<b>POLREP No.:</b>	10	<b>Site #:</b>	UU
<b>Reporting Period:</b>	May 2004 - April 2005	<b>D.O. #:</b>	0084
<b>Start Date:</b>	12/13/2003	<b>Response Authority:</b>	CERCLA
<b>Mob Date:</b>	12/13/2003	<b>Response Type:</b>	Emergency
<b>Completion Date:</b>	4/14/2005	<b>NPL Status:</b>	Non NPL
<b>CERCLIS ID #:</b>	NYD034557108	<b>Incident Category:</b>	Removal Action
<b>RCRIS ID #:</b>	NYD034557108	<b>Contract #</b>	68-S2-99-08

### Site Description

Aryl Inc. (the Site) occupies shop and warehouse space at 21 Isabelle Street, Buffalo, NY. Aryl Inc. is one of 23 tenants at 21 Isabelle Street. Aryl Inc. was formerly Niagara Aromatics and Niagara Technologies. Niagara Aromatics was a small chemical production facility that was initially set up to produce a dye for a larger cosmetics manufacturer. In 1985, the company shifted focus towards the manufacture of chemical intermediates for the pharmaceutical industry and changed names to Niagara Technologies. In 1986, Niagara Technologies ran out of funding and closed its doors. The owner of Niagara Technologies later incorporated Aryl Inc. to produce finished metal products such as boating rails. Aryl Inc. currently occupies the same shop and warehouse space as the former Niagara Aromatics and Niagara Technologies. Aryl Inc. still contains chemicals from the former Niagara Aromatics and Niagara Technologies operations.

The Site is located in a light-industrial / residential area with approximately 7800 people living within a 1/2 mile radius. Residential properties border the site from the northern point along Isabelle Street to the southern point along Crowley Ave.

On December 11, 2003, the New York State Department of Environmental Conservation (NYSDEC) requested that EPA conduct a Removal Site Evaluation (RSE) at Aryl Inc. On December 12, 2003, EPA and its Removal Support Contract (RST) personnel mobilized to the Site

and conducted an RSE. EPA observed many containers of hazardous substances stored in poor condition. Some of the high-hazard substances included water reactives such as phosphorous oxychloride and sodium methylate; toxics including dimethyl sulfate, bromine and dichlorodinitrobenzene; corrosives such as hydrofluoric acid and hydrogen chloride; flammable alcohols and potentially shock-sensitive ethers. Discussion and interviews with the Responsible Party (RP) indicated that the RP did not have the funding to conduct a removal action. The RP stated that the chemicals are not used by Aryl Inc. for any of its current operations. On December 12, 2003, the EPA OSCs obtained a verbal authorization for funding based on the hazardous nature of the chemicals stored on-site and the poor condition in which they were being stored. On December 13, 2003, EPA mobilized its Emergency and Rapid Response Services (ERRS) contractor to establish site security and to begin the development of a work plan for the removal action.

### Current Activities

Removal operations began on January 5, 2004 and were completed on May 7, 2004. During that time frame EPA mobilized clean-up contractors to collect, contain, and dispose a variety of hazardous wastes found on the site.

As of April 14, 2005, EPA has received all Certificates of Disposal / Destruction for the wastes generated from the Aryl Inc. Site.

The following items identify the actions taken during this removal action:

- Secured and stabilized the Site
- Conducted inventory of hazardous wastes
- Secured and stabilized all hazardous wastes found at the Site
- Collected and staged all hazardous wastes in a location where they could be properly handled
- Conducted field hazard categorization screening for unknown materials to identify hazardous waste streams for disposal
- Sampled all hazardous wastes streams for disposal
- Properly packaged all hazardous waste
- Transport and disposal of hazardous wastes generated during the removal
- Secured the Site with fencing and locks

### Planned Removal Actions

None

### Next Steps

None

### Key Issues

None

### Estimated Costs \*

	Budgeted	Total To Date	Remaining	% Remaining
<b>Extramural Costs</b>				
ERRS - Cleanup Contractor	\$368,602.00	\$307,174.00	\$61,428.00	16.67%

RST/START	\$65,000.00	\$55,000.00	\$10,000.00	15.38%
<b>Intramural Costs</b>				
<b>Total Site Costs</b>	<b>\$433,602.00</b>	<b>\$362,174.00</b>	<b>\$71,428.00</b>	<b>16.47%</b>

\* The above accounting of expenditures is an estimate based on figures known to the OSC at the time this report was written. The OSC does not necessarily receive specific figures on final payments made to any contractor(s). Other financial data which the OSC must rely upon may not be entirely up-to-date. The cost accounting provided in this report does not necessarily represent an exact monetary figure which the government may include in any claim for cost recovery.

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**KRAUS WAREHOUSE SITE**  
**PHOTO DOCUMENTATION**

**Pictures taken: December 14, 2004**



Figure 1: Fire Area inside Kraus Warehouse.

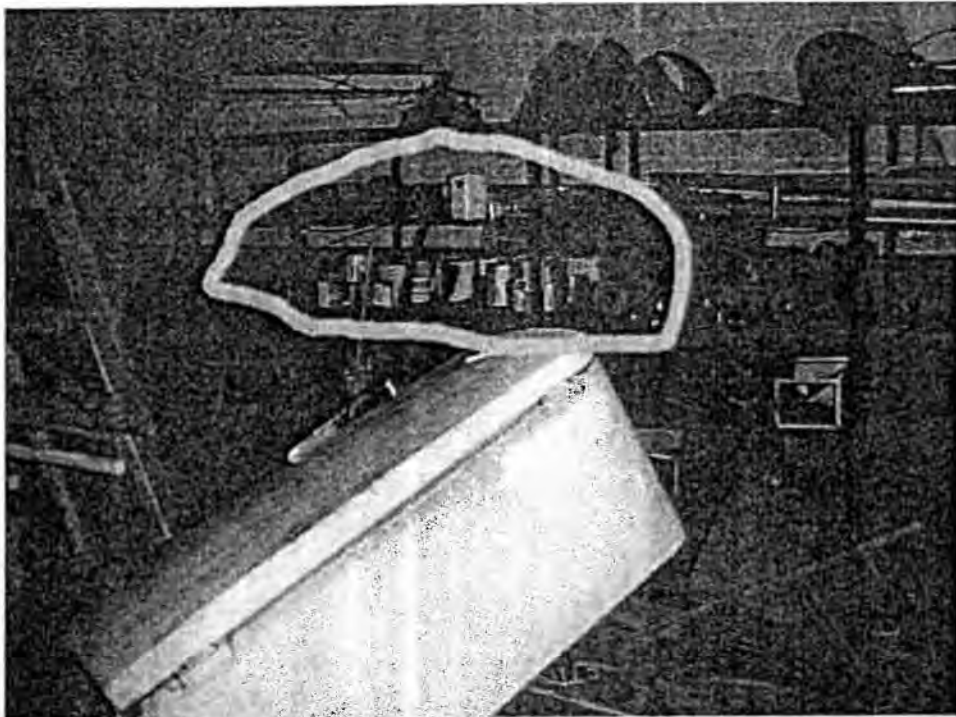


Figure 2: A shelf of lab packs.



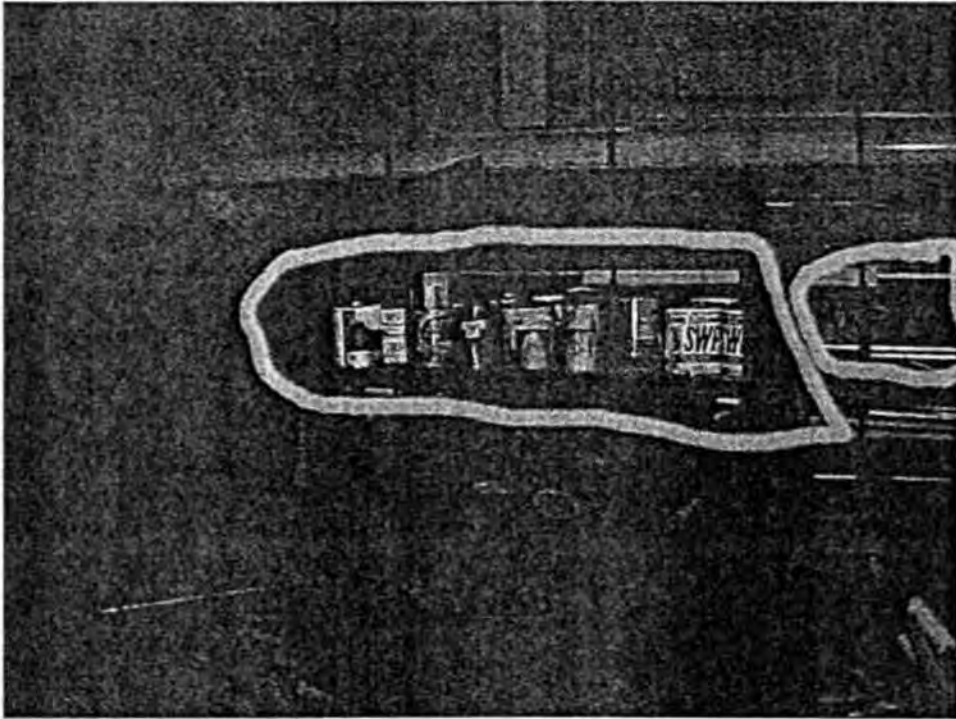


Figure 3: A shelf of lab packs.

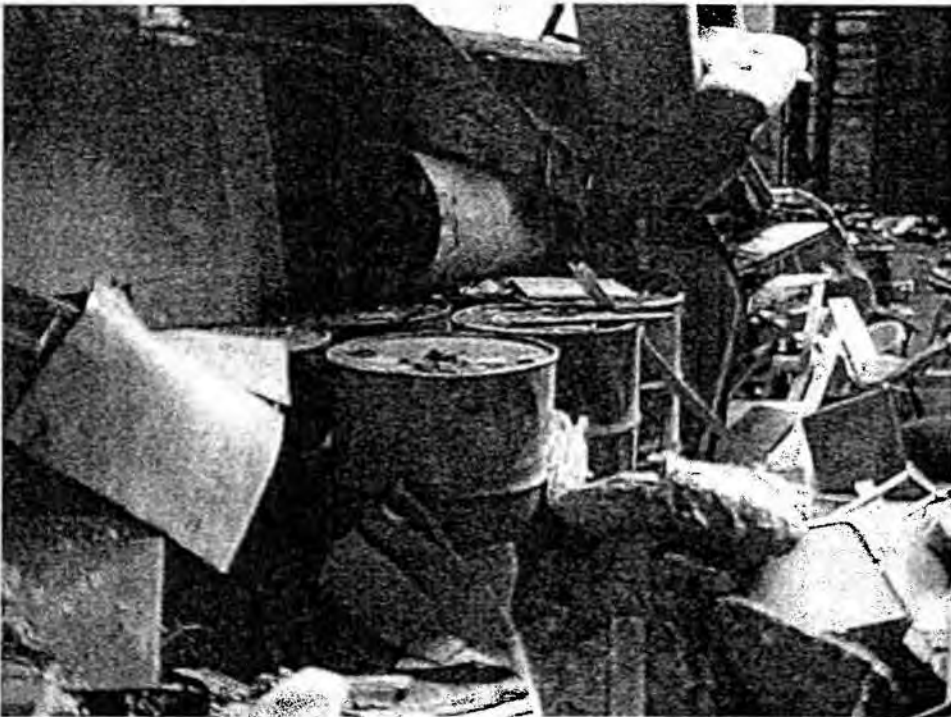


Figure 4: Abandoned drums.



Figure 5: Abandoned drums.

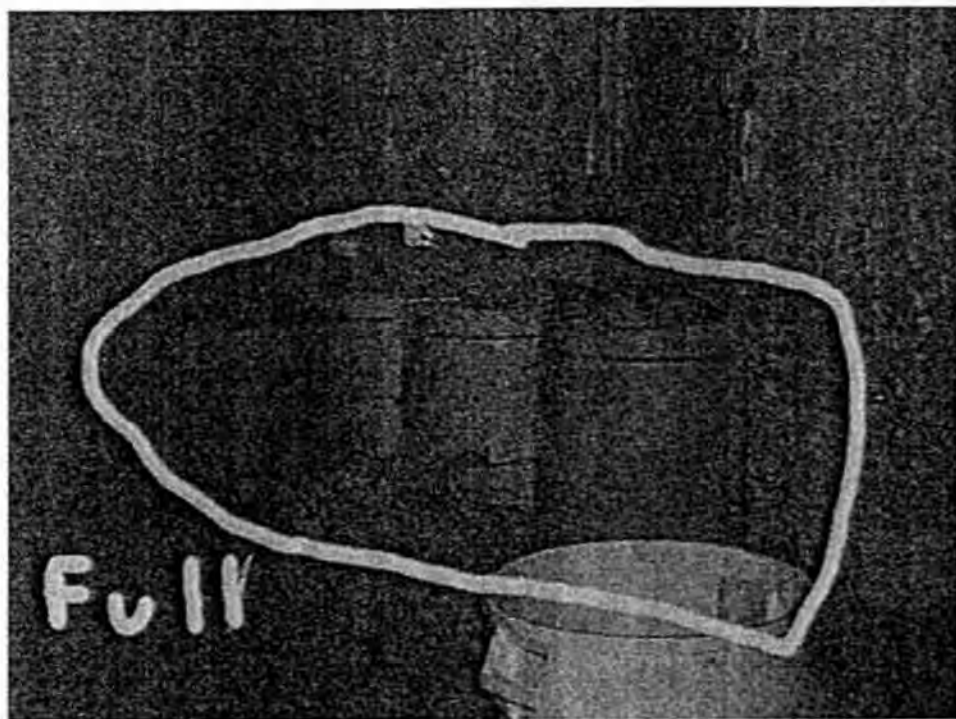


Figure 6: Full drums.

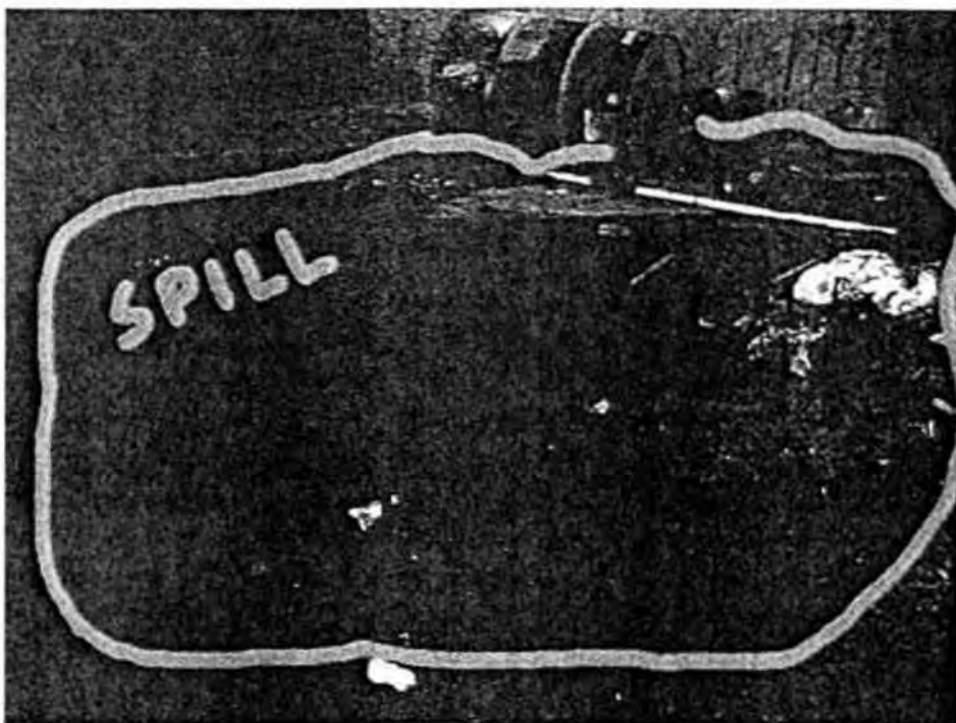


Figure 7: Drum spill.



Figure 8: Abandoned drums.



Figure 9: Abandoned tank.



Figure 10: Aerial view of Kraus Warehouse.



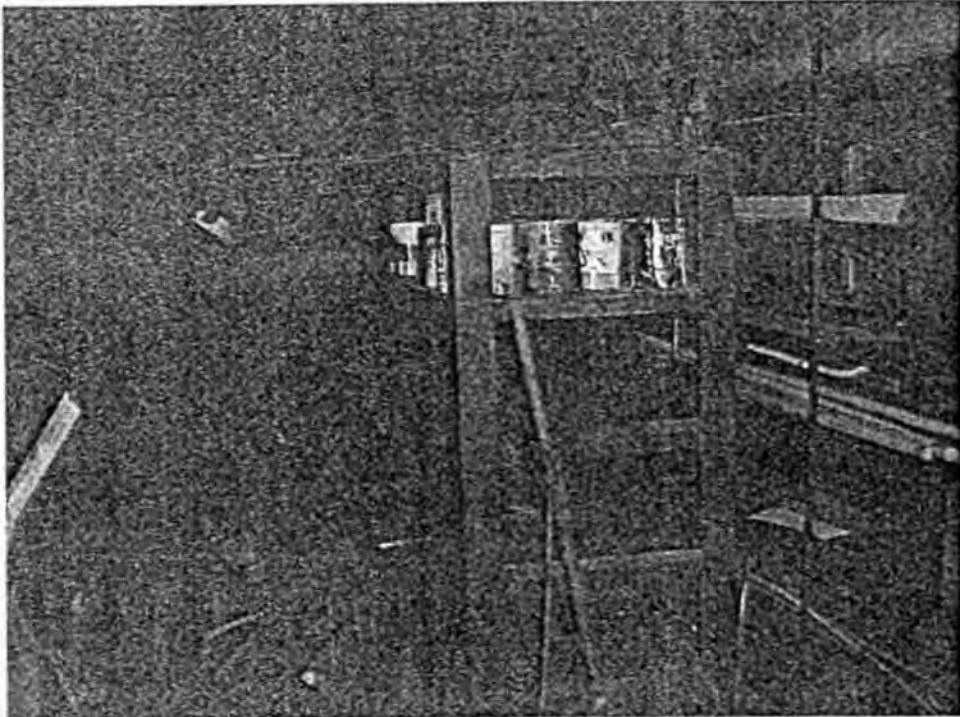


Figure 11: Shelf of lab packs.

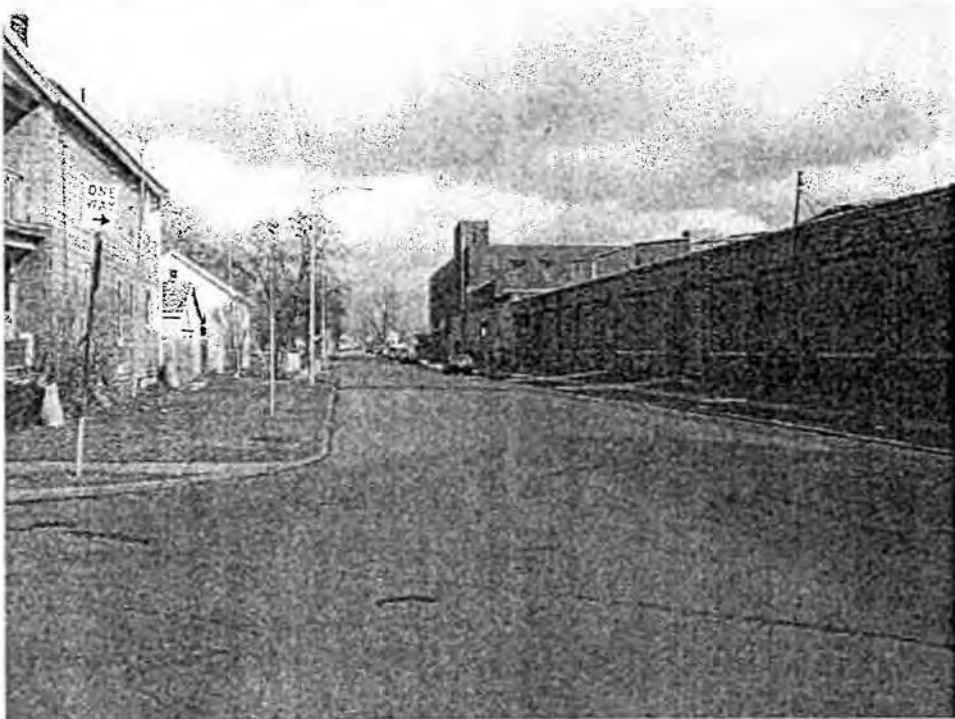


Figure 12: Outside of Kraus Warehouse Site.

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STATE OF NEW YORK  
CITY COURT: COUNTY OF ERIE

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STATE OF NEW YORK,

Plaintiff,

**AMENDED ORDER TO VACATE**

v.

WILLIAM P. KRAUS, JR.,

Defendant.

---

Docket Nos. H01723/99  
H00875/04  
H00876/04

Upon the Information, inspection reports and all prior proceedings herein, including information provided to the Court on July 2, 2004 and August 4, 2004, it is hereby

**ORDERED**, that the building(s) on Defendant's property at **308 Crowley Street** in Buffalo, New York, shall be vacated by **September 1, 2004**, and boarded so as to prevent any entry into such property, until further order of this Court; and it is further

**ORDERED**, that any individual found inside the building(s) at the subject premises after **September 1, 2004** may be forcibly removed from the premises by the BUFFALO POLICE DEPARTMENT; and it is further

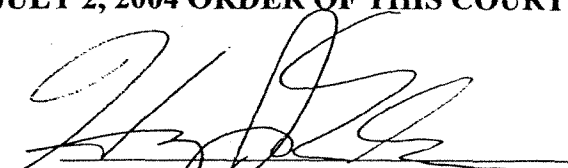
**ORDERED**, that after **September 1, 2004**, the BUFFALO POLICE DEPARTMENT may use any and all means necessary to remove any individuals from the subject premises, including but not limited to breaking down doors or other barriers in order to gain access to the premises; and it is further

**ORDERED**, that at the time of the initial vacating and boarding of the subject premises, the City of Buffalo provide each individual removed from the premises with a copy of this Order, and it is further

**ORDERED**, that at the time of the initial vacating and boarding of the subject premises, the City of Buffalo shall post at every entrance a copy of this Order, along with a separate notice stating, **"ORDER TO VACATE – IF YOU ARE FOUND ON THIS PROPERTY OR ATTEMPT TO ACCESS THIS BUILDING, YOU MAY BE REMOVED IMMEDIATELY BY THE BUFFALO POLICE DEPARTMENT, ARRESTED AND CHARGED WITH CRIMINAL CONTEMPT IN THE SECOND DEGREE IN VIOLATION OF PENAL LAW § 215.50(3), WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO ONE YEAR AND/OR A \$1,000 FINE"**; and it is further

**ORDERED**, that any individual subsequently found inside the building(s) at such property, or removing or attempting to remove any boards covering any doors, windows, or other means of ingress or egress into such building(s), may be charged with criminal contempt in the second degree in violation of Penal Law § 215.50(3), by resisting this mandate of the court.

**THIS ORDER SUPERCEDES THE JULY 2, 2004 ORDER OF THIS COURT.**



Hon. Henry J. Nowak

ENTER:

AUG 04 2004



STATE OF NEW YORK  
CITY COURT: COUNTY OF ERIE

---

STATE OF NEW YORK,

Plaintiff,

**AMENDED ORDER TO VACATE**

v.

Docket Nos. H01723/99

WILLIAM P. KRAUS, JR.,

H00875/04

H00876/04

Defendant.

---

Upon the Information, inspection reports and all prior proceedings herein, including information provided to the Court on July 2, 2004 and August 4, 2004, it is hereby

**ORDERED**, that the August 4, 2004 ORDER TO VACATE is hereby amended, to allow representatives of the New York State Department of Environmental Conservation and United States Environmental Protection Agency, and contractors accompanying them, access inside the building(s) on Defendant's property at 308 Crowley Street in Buffalo, New York, on **December 14, 2004**, for the purpose of inspecting and obtaining samples from the property; and it is further

**ORDERED**, that any individual subsequently found inside the building(s) at such property, or removing or attempting to remove any boards covering any doors, windows, or other means of ingress or egress into such building(s), may be charged with criminal contempt in the second degree in violation of Penal Law § 215.50(3), by resisting this mandate of the court.

  
Hon. Henry J. Nowak

ENTER: ~~DEC 08 2004~~

DEC 09 2004

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## NOTICE OF PUBLIC AVAILABILITY

The United States Environmental Protection Agency (EPA) announces the availability for public review of files comprising the administrative record for the selection of the removal action at the Kraus Warehouse Site. The EPA seeks to inform the public of the availability of the record file at this repository and to encourage the public to comment on documents as they are placed in the record file.

The administrative record file includes documents which form the basis for the selection of a removal action at this site. Documents now in the record file include: Incident Report, List of Tenants and Spaces Rented, Pollution Reports, Action Memorandum, State Request for Emergency Response Action, Notice Letter and the EPA regional guidance documents list. Other documents may be added to the record files as they become available. These additional documents may include, but are not limited to, other technical reports, validated sampling data, comments, and new data submitted by interested persons, and the EPA responses to significant comments.

The administrative record files are available for review during normal business hours at:

Buffalo and Erie County  
Central Public Library  
1 Lafayette Square  
Buffalo, NY 14203-1887  
(716) 858-8900

U.S. EPA - Region II  
Removal Action Branch  
2890 Woodbridge Avenue  
Edison, NJ 08837  
(732) 321-6789

Additional guidance documents and technical literature is available at the following location:

U.S. EPA - Region II  
Removal Records Center  
2890 Woodbridge Avenue  
Edison, NJ 08837  
(732) 906-6980

Written comments on the Administrative Record should be sent to:

Kevin Matheis  
On-Scene Coordinator  
Removal Action Branch  
U.S. EPA - Region II  
2890 Woodbridge Avenue  
Edison, NJ 08837

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## EPA REGIONAL GUIDANCE DOCUMENTS

The following documents are available for public review at the EPA Region II Field Office, 2890 Woodbridge Avenue, Edison, New Jersey 08873 during regular business hours.

- \* Glossary of EPA Acronyms
- \* Superfund Removal Procedures--Revision #3. OSWER Directive 9360.0-03B, February 1988.
- \* Hazardous Waste Operations and Emergency Response.  
Notice of Proposed Rule making the Public Hearings.  
29 CFR Part 1910, Monday, August 10, 1987.
- \* Guidance on Implementation of Revised Statutory Limits on Removal Action.  
OSWER Directive 9260.0-12, May 25, 1988.
- \* Redelelegation of Authority under CERCLA and SARA.  
OSWER Directive 9012.10, May 25, 1988.
- \* Removal Cost Management Manual.  
OSWER Directive 9360.0-02B, April, 1988.
- \* Field Standard Operating Procedures (FSOP).  
#4 Site Entry.  
#6 Work Zones.  
#8 Air Surveillance.  
#9 Site Safety Plan.
- \* Standard Operating Safety Guides – U.S. EPA Office of Emergency and Remedial Response, July 5, 1988.
- \* CERCLA Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).
- \* SARA: Superfund Amendments and Reauthorization Act of 1986.
- \* NCP: National Oil and Hazardous Substances Pollution Contingency Plan.-  
Publication No. 9200.2-14.
- \* Guidance on Implementation of the “Contribute to Efficient Remedial Performance” Provision - Publication No 9360.0-13.

Additional Guidance Documents are listed below and are available for review at the EPA Region II Removal Records Center.

- \* The Role of Expedited Response Actions (EPA) Under SARA - Publication No. 9360.0-15.
- \* Guidance on Non-NPL Removal Actions Involving Nationally Significant or Precedent Setting Issues - Publication No. 9360.0-19.
- \* ARARS During Removal Action - Publication No 9360.3-02.
- \* Consideration of ARARS During Removal Actions - Publication No. 9360.3-02FS.
- \* Public Participation for OSC's - Community Relations and the Administrative Record - Publication No. 9360.3-05.
- \* Superfund Removal Procedures - Removal Enforcement Guidance for On-Scene Coordinators - Publication No. 9360.3-06.
- \* QA/QC for Removal Actions - Publication No. 9360.4-01.
- \* Compendium for ERT Air Sampling Procedures - Publication No. 9360.4-05.